

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PERSEUS DISTRIBUTION, INC., and  
PERSEUS BOOKS, LLC,

Plaintiffs,

v.

CF COMMUNICATIONS, LLC, dba  
TELEKENEX, INC.,

Defendant.

No. C 08-044 CW

TEMPORARY  
RESTRAINING ORDER  
AND ORDER TO SHOW  
CAUSE WHY A  
PRELIMINARY  
INJUNCTION SHOULD  
NOT ISSUE

Plaintiffs Perseus Distribution, Inc. and Perseus Books, LLC  
move for a temporary restraining order. Defendant CF  
Communications, LLC has not opposed the motion and has informed  
Plaintiffs that it does not intend to obtain counsel. Miller Decl.  
¶ 6. A corporation may appear in federal court only through  
licensed counsel. See Rowland v. California Men's Colony, 506 U.S.  
194, 201-02 (1993); United States v. High Country Broad. Co., 3  
F.3d 1244, 1245 (9th Cir. 1993); see also Civ. Local Rule 3-9(b)  
("A corporation . . . may appear only through a member of the bar

1 of this Court"). Therefore, the Court considers the merits of  
2 Plaintiffs' motion without an opposition from Defendant. Having  
3 considered Plaintiffs' papers, the Court grants Plaintiffs' motion  
4 for a temporary restraining order and orders Defendant to show  
5 cause why a preliminary injunction should not issue.

6 A temporary restraining order may be issued only if "immediate  
7 and irreparable injury, loss, or damage will result to the  
8 applicant" if the order does not issue. Fed. R. Civ. P. 65(b). To  
9 obtain a temporary restraining order, the moving party must  
10 establish either: (1) a combination of probable success on the  
11 merits and the possibility of irreparable harm, or (2) that serious  
12 questions regarding the merits exist and the balance of hardships  
13 tips sharply in the moving party's favor. See Baby Tam & Co. v.  
14 City of Las Vegas, 154 F.3d 1097, 1100 (9th Cir. 1998); Rodeo  
15 Collection, Ltd. v. W. Seventh, 812 F.2d 1215, 1217 (9th Cir.  
16 1987).

17 The Court finds that Plaintiffs have made a sufficient showing  
18 of likely success on the merits of their claim and of irreparable  
19 harm to justify granting the relief they seek. Therefore, the  
20 motion for a temporary restraining order is GRANTED and Defendant  
21 is hereby ORDERED to release the following telephone numbers and  
22 take any steps necessary to allow Plaintiffs to activate service  
23 with TelePacific Communications.

24 (510) 528-1444  
25 (510) 528-3444  
26 (510) 528-5511  
27 (510) 528-7211  
28 (510) 528-8167  
(510) 528-9555  
(510) 558-0156

(510) 558-0422  
(800) 261-7503  
(800) 788-3122

This temporary restraining order is effective on Plaintiffs' posting a bond in the amount of \$60,000, one half of the termination fee Defendant claims it is owed. In the alternative, Plaintiffs may post a bond in the amount of \$1,000, in which case Defendant is ordered to restore forthwith service on the numbers listed above. In either case, the temporary restraining order shall remain in effect until the Court rules on Plaintiffs' motion for a preliminary injunction.

It is further ORDERED that Defendants show cause before this Court on January 24, 2008 at 2:00 p.m., or as soon thereafter as counsel may be heard, why an order should not be issued pursuant to Rule 65 of the Federal Rules of Civil Procedure enjoining Defendants or their agents during the pendency of this action from undertaking or permitting any action of any kind that prevents Plaintiffs from porting the telephone numbers listed above to service with TelePacific Communications.

If Defendant wishes, it may respond to this order to show cause by filing a written submission on or before January 17, 2008. In order to do so Defendant must retain counsel. As stated above, a corporation may appear in federal court only through licensed counsel. A corporate defendant that fails to appear in court through licensed counsel is in default, and the plaintiff is entitled to entry of default against it. See High Country, 3 F.3d at 1245. If Defendant does file a written submission, Plaintiffs may reply on or before January 20, 2008. If Defendant does not

1 retain counsel and does not appear to oppose the order to show  
2 cause, a preliminary injunction will issue and Plaintiffs may seek  
3 entry of default.

4 IT IS SO ORDERED.

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6 Dated: 1/4/08



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CLAUDIA WILKEN  
United States District Judge